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ILLINOIS
COMMERCE COMMISSION

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CHIEF CLERK'S OFFICE

04-0234

VS.

Novacon, LLC

In the matter of an Informal Complaint
Pursuant to the Illinois Administrative Code
Part 200 Rules of Practice Section 200.160

Bruce Levin, brings this Informal Complaint against Novacon LLC, pursuant to Section 200.160 of the Illinois Administrative Code.

1

license. Therefore, the Security Agreement may violate the terms of the 1996 Telecommunications Act and rules and regulations promulgated there under.

Nonetheless, on January 10, 2004 Novacon LLC, to satisfy its debts to Novacon Holdings, LLC, purportedly transferred all of the assets of Novacon LLC, except cash but including its license to provide telecommunication services, all interconnection agreements, and customers contracts, to Novacon Holdings LLC. (*See January 10, 2004 Resolutions and January 13, 2004 Letter from Novacon LLC attached hereto as Exhibit 2*).¹

Consequently, Novacon LLC appears to no longer hold a license to provide telecommunications services; to no longer be a party to any interconnection agreement; and to no longer have any customers.

PARTIES

1. Bruce Levin is a natural person. Mr. Levin's address is 1180 St. Johns Avenue, Highland Park, IL 60035. Mr. Levin is the majority owner of Novacon LLC, the Operating Agreement of Novacon LLC contains some voting restrictions.
2. Novacon LLC is a limited liability corporation duly organized and existing under and by virtue of the laws of the State of Illinois with its principal place of business located at 500 Skokie Blvd, Suite 280, Northbrook, IL 60062.

¹ Mr. Levin voted his shares against the resolutions transferring the assets of Novacon LLC to Novacon Holdings, LLC. It is his position that the Security Agreement and subsequent transfer of assets violate terms of Novacon LLC's operating agreement, and are, therefore, void. Mr. Levin is not waiving that argument or changing his position by bringing to the attention of the Commission, Novacon LLC's purported transfer of assets, licenses, agreements, and customers.

JURISDICTION

Novacon LLC was authorized by the Commission to provide facilities based and resold local and interexchange telecommunications services within the State of Illinois in docket number 99-0672.

COUNT I (VIOLATION OF SEC. 7-102 OF THE PUBLIC UTILITIES ACT)

Section 7-102 of the PUA provides in part, as follows:

Transactions requiring Commission approval.

(A) Unless the consent and approval of the Commission is first obtained or unless such approval is waived by the Commission or is exempted in accordance with the provisions of this Section or of any other Section of this Act: c) No public utility may assign, transfer, lease, mortgage, sell (by option or otherwise), or otherwise dispose of or encumber the whole or any part of its franchises, licenses, permits, plant, equipment, business, or other property....

On May 30, 2003 Novacon LLC, purportedly entered into a Security Agreement with Novacon Holdings, LLC wherein all of the assets of Novacon LLC, except cash but including its license to provide telecommunication services, Customer Contracts and Interconnection Agreements, were encumbered thus violating Section 13-406 of the PUA.

Page 1 of the Novacon Holdings, LLC Security Agreement provides in part, as follows:

“Novacon, L.L.C., an Illinois Limited Liability Company with its principal place of business located at 500 Skokie Blvd., Suite 280, Northbrook, Illinois, (“Debtor”), for valuable considerations[sic], receipt whereof is hereby acknowledged, hereby grants to Novacon Holdings, L.L.C., an Illinois Limited Liability Company (“Lender”), with its principal place of business located at 1895 Rohlwing Road, Suite B, Rolling Meadows, Illinois (“Secured Party”), a security interest in the following property and any and all substitutions therefore and replacements thereof and any

and all additions and accessions thereto (the "Collateral"):
....all interconnection agreements now in force or which
may be entered into subsequent to the date of this Security
Agreement, **all licenses including, but not limited to, the
license granted to Debtor by the Illinois Commerce
Commission certified in document number 99-0672 to
provide telecommunication services**, and all other
agreements now in force or as may be entered into by
Debtor subsequent to the date of this Security
Agreement;..."

**COUNT II
(VIOLATION OF SEC. 13-406 OF THE PUBLIC UTILITIES ACT)**

Section 13-406 of the PUA provides in part, as follows:

No telecommunications carrier offering or providing noncompetitive telecommunications service pursuant to a valid Certificate of Service Authority or certificate of public convenience and necessity shall discontinue or abandon such service once initiated until and unless it shall demonstrate, and the Commission finds, after notice and hearing, that such discontinuance or abandonment will not deprive customers of any necessary or essential telecommunications service or access thereto and is not otherwise contrary to the public interest. No telecommunications carrier offering or providing competitive telecommunications service shall discontinue or abandon such service once initiated except upon 30 days notice to the Commission and affected customers. The Commission may, upon its own motion or upon complaint, investigate the proposed discontinuance or abandonment of a competitive telecommunications service and may, after notice and hearing, prohibit such proposed discontinuance or abandonment if the Commission finds that it would be contrary to the public interest.

On January 10, 2004, Novacon LLC's alleged Manager Mr. Kurt Scholle, purportedly caused Novacon LLC to transfer all of the assets of Novacon LLC, except cash but including its Customer Contracts, to Novacon Holdings LLC. The abandonment of

customers, and subsequent transfer to unlicensed carrier Novacon Holdings LLC violate Section 13-406 of the PUA.

COUNT III
(VIOLATION OF SEC. 7-203 OF THE PUBLIC UTILITIES ACT)

Section 7-203 of the PUA provides in part, as follows:

No franchise, license, permit or right to own, operate, manage or control any public utility shall be assigned, transferred or leased nor shall any contract or agreement with reference to or affecting any such franchise, license, permit or right be valid or of any force or effect whatsoever, unless such assignment, lease, contract, or agreement shall have been approved by the Commission. Such permission shall not be construed to revive or validate any lapsed or invalid franchise, license, permit or right, or to enlarge or add to the powers and privileges contained in the grant of any franchise, license, permit or right, or to waive any forfeiture.

On January 10, 2004 Novacon LLC, purportedly transferred all of the assets of Novacon LLC, except cash but including its license to provide telecommunication services, to Novacon Holdings LLC thus violating Section 7-203 of the PUA.

COUNT IV
(VIOLATION OF SEC. 5-107 OF THE PUBLIC UTILITIES ACT)

Section 5-107 of the PUA provides in part, as follows:

Any person who shall wilfully make any false entry in the accounts, or in any record or memoranda or by any other means or device falsify the record of any such account, record or memoranda, or who shall willfully neglect or fail to make full, true, and correct entries in such accounts, records, or memoranda of all facts in transactions appertaining to the business of the public utility, or shall

keep any accounts or record other than those prescribed or approved by the Commission, shall be guilty of a Class A misdemeanor.

An audit was provided by Mr. Brian Cote of the accounting firm FGMK of Novacon LLC's December 31, 2000 Financial Statements. During the audit Mr. Cote discovered that Mr. James M Reninger, CPA (Member and "Tax Matters" Partner of Novacon LLC, and Partner of Whitfield Reninger, Ltd.) overstated revenues by misclassifying customer deposits as assets(See July 19, 2001 Letter from Brian Cote of FGMK attached hereto as Exhibit 3) a violation of GAAP and 5-107 of the PUA. When confronted Mr. Reninger acknowledged that, was not properly treating these entries.

Pursuant to Section 4-101 of the PUA, this Commission has the authority to supervise all public utilities, including telecommunications carriers, and to monitor their compliance with the PUA, any other law, and the orders of the Commission. 220 ILCS 5/4-101. The Commission has the power to hold hearings concerning any matters covered by the PUA. 220 ILCS 5/7-203 and 13-406.

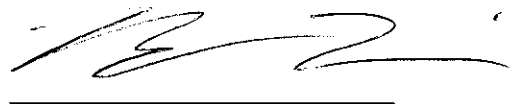
RELIEF

WHEREFORE, Levin requests that the Commission enter an order finding that Novacon LLC has violated Sections 7-102, 7-203, 13-401, 13-406, and 5-107 of the PUA and providing for the following relief:

1. Order Novacon LLC to pay Levin's attorney fees and other costs in pursuing this Complaint.
2. Order Novacon LLC to reimburse the Commission's costs associated with this Complaint.
3. Pursuant to Section 4-501 of the PUA request the Commission to issue a petition for receivership and a verifying affidavit executed by the executive director of the Commission or a person designated by the executive director asking the circuit court for an order attaching the assets of the Novacon LLC and placing Novacon LLC under the control and responsibility of a receiver. If the receiver determines that the Novacon LLC actions that caused it to be placed under the control and responsibility of the receiver were due to misappropriation or wrongful diversion of the assets or income of the company or to other misconduct by a director, officer, or manager of the company, the receiver shall file a petition with the circuit court that issued the order of receivership for an order that the director, officer, or manager be ordered to pay compensatory damages to the company because of the misappropriation, diversion, or misconduct.

Respectfully submitted,

By: _____



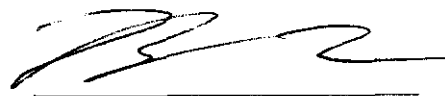
Bruce Levin
1180 St. Johns Av.
Highland Park, IL 60035
847-433-2500 ex 153
blevin@levincom.com

Dated: February 26, 2004

VERIFICATION

STATE OF ILLINOIS)
)
COUNTY OF LAKE)

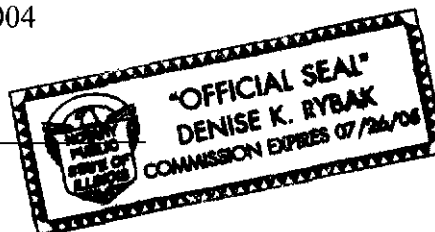
Bruce Levin, being duly sworn upon oath, deposes and states that he has read the foregoing complaint and knows the contents thereof; and that to the best of his knowledge, information, and belief, maintains that the contents of this document is true and correct.



Bruce Levin
1180 St. Johns Av.
Highland Park, IL 60035
847-433-2500 ex 153
blevin@levincom.com

SUBSCRIBED and SWORN to
Before me this 26th day of February, 2004


Notary Public 02/26/04



Bruce Levin)
)
vs.)
)
Novacon,LLC)
)
)
In the matter of a **INFORMAL** Complaint)
Pursuant to the Illinois Administrative Code)
Part 200 Rules of Practice Section 200.160)
)

NOTICE OF FILING

PLEASE TAKE NOTICE that I have on this 26th day of February, 2004 filed via FedEx with the Chief Clerk of the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Bruce Levin's compliant.

A handwritten signature in black ink, appearing to read 'B. Levin', is written over a horizontal line.

Bruce Levin

Exhibits

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|-----------|---|
| Exhibit 1 | Novacon LLC Security Agreement (Dated May 30, 2003) |
| Exhibit 2 | Novacon LLC January 10, 2004 Resolutions and January 13, 2004 Letter. |
| Exhibit 3 | FGMK Letter dated July 19, 2001. |